

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35038

STATE OF IDAHO,)	2008 Unpublished Opinion No. 693
)	
Plaintiff-Respondent,)	Filed: November 5, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
JOSE FRANCISCO OROZCO-MARTINEZ,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Lincoln County. Hon. John K. Butler, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Jose Francisco Orozco-Martinez pled guilty to rape. I.C. § 18-6101(1). The district court sentenced Orozco-Martinez to a unified term of six years, with a minimum period of confinement of one and one-half years. Orozco-Martinez filed an I.C.R 35 motion, which the district court denied. Orozco-Martinez appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new information in support of Orozco-

Martinez's Rule 35 motion was presented, review of the sentence by this Court is precluded. For the foregoing reasons, the district court's order denying Orozco-Martinez's Rule 35 motion is affirmed.